IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

WP(C).No. 32136 of 2005(A)

PETITIONER:

K.V.MADHAVI AMMA,
W/O. LATE K.V.GOVINDAN NAIR, MALAPATTOM POST,
KANNUR DISTRICT.

BY ADV. SRI. I.V. PRAMOD.

RESPONDENTS:
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1. **UNION OF INDIA - REPRESENTED BY**
   THE DEPUTY SECRETARY TO GOVERNMENT OF INDIA,
   MINISTRY OF HOME AFFAIRS, FREEDOM FIGHTERS PENSION
   LOK NAYAK BHAVAN, 1ST FLOOR, KHAN MARKET,
   NEW DELHI - 100 003.

2. **THE STATE OF KERALA - REPRESENTED BY**
   THE SECRETARY TO GOVERNMENT, DEPARTMENT OF
   GENERAL ADMINSITRATION, TRIVANDRUM.

3. **THE DISTRICT COLLECTOR, KANNUR.**

BY GOVERNMENT PLEADER SRI. K.V. MANOJ,
SRI.P.PARAMESWARAN NAIR,ASST.S.G.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.32136/2005:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE SANCTIONING ORDER NO. SZ 19/1031/74-FF.VI OF THE R.1. DT. NIL.

EXT.P.2: COPY OF THE ORDER DTD. 12/12/1977 OF THE R.1.

EXT.P.3: COPY OF THE REPRESENTATION SUBMITTED DURING JANUARY 1978.

EXT.P.4: COPY OF THE INTIMATION SERVED BY THE R.3. TO THE PETITIONER'S HUSBAND TO RECEIVE THE `THAMRA PATHRAM', DTD. 18/08/1975.

EXT.P.5: COPY OF THE APPLICATION DTD. 24/03/1998 OF THE PETITIONER'S HUSBAND.

EXT.P.6: COPY OF THE CERTIFICATE ISSUED BY THE SUPERINTENDENT OF CENTRAL PRISON, KANNUR DTD. 28/06/1973.

EXT.P.7: COPY OF THE CERTIFICATE ISSUED BY THE SUPERINTENDENT OF CENTRAL PRISON TO THE PETITIONER'S HUSBAND DT. 17/07/73.

EXT.P.8: COPY OF THE CERTIFICATE ISSUED BY MR. K.P.R. RAYARAPPAN TO THE PETITIONER'S HUSBAND DT. 16/11/1998.

EXT.P.9: COPY OF THE NOTICE DTD. 06/07/1999 ISSUED BY THE R.3. TO THE PETITIONER'S HUSBAND.

EXT.P.10: COPY OF THE COMMUNICATION DTD. 20/01/1998 ISSUED BY THE R.1 TO THE R.2.

RESPONDENT'S EXHIBITS:

EXT.R1.A: COPY OF THE LETTER NO. SZ19/1031/74-FF.VI DT. 12/12/1977 ISSUED BY THE GOVT. OF INDIA, MINISTRY OF HOME AFFAIRS.

EXT.R1.B: COPY OF THE LETTER DT. 20/02/2006 ISSUED TO THE GOVERNMENT OF KERALA.

//TRUE COPY//

prv.

T.R. Ramachandran Nair, J.

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W.P.(C).NO.32136 of 2005-A

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Dated this the 21st day of August, 2007

JUDGMENT

The petitioner is the wife of Kizhakkeveettil Govindan Nair, who was a freedom fighter. He was sanctioned Freedom Fighters' Pension in the year 1974, viz. Central pension, but the same was cancelled in the year 1977. Learned counsel for the petitioner submits that the cancellation was due to the reason that Kavumbai Movement was not recognised at that time and there was a specific income limit also at the initial stages of the scheme. Later, Kavumbai Movement was included as part of the National Freedom Movement for grant of pension and the limit of income was also taken away. Ext.P5 is the application submitted by the late husband of the petitioner for pension under the SSS Pension Scheme, which is dated 24.3.1998. That was submitted along with relevant documents. Ext.P6 is the extract of the under trial register and Ext.P7 is the convict register relating to the deceased husband of the petitioner. Ext.P7 shows that he suffered imprisonment for 190 days, going by the last column therein. Ext.P8 is the certificate issued by Shri K.P.R. Rayarappan.

2. Pursuant to Ext.P9 notice, the petitioner's late husband appeared

for the enquiry and produced all relevant documents before the first respondent on 16.7.1999. Ext.P10 is the communication issued by the Central Government recognising Kavumbai Movement also as part of the freedom struggle. Subsequently, he expired on 7.12.2001 and the petitioner thereafter approached this court for issuance of appropriate direction to the respondents to grant pension with retrospective effect from the date of cancellation of the earlier sanction.

3. Government of India has filed a counter affidavit, wherein Ext.R1 (b) letter dated 20.2.2006 addressed to the Government of Kerala is produced. As per the same, the State Government has been directed to furnish a verification-cum-entitlement to person report to enable them to take a decision in the matter.

4. Learned Govt. Pleader on instructions, has produced for perusal a letter No.87056/FFP.A1/04/GAD dated 10.11.2004 addressed to the Government of India, Ministry of Home Affairs, recommending the case for SSS Pension . Therein, the details of imprisonment of the late husband of the petitioner has also been mentioned. It is also clear that the District Collector and the District Advisory Committee have recommended the case for SSS Pension.

5. In the light of the stand taken by the first respondent that they have

sought for a report form the State Government as per communication dated 20.2.2006, I direct the second respondent to forward to the first respondent a copy of the letter of recommendation dated 10.11.2004 for action on the part of the first respondent, within six weeks from the date of receipt of a copy of this judgment. On getting the said report, the first respondent will consider the application Ext.P5 and any further representation, if any, the petitioner is to make, and appropriate orders in the matter shall be passed by the first respondent within a period of two months thereafter. The first respondent shall also consider the claim of the petitioner for arrears of pension from the date of Ext.P10 order.

The writ petition is disposed of in the above terms. No costs.

(T.R. Ramachandran Nair, Judge.)

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